THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.10341 OF 2005

DATE:21.09.2005

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Between:

U.Narayana, S/o.Veeraiah, Driver,

E.206332, H.No.6-4-30/1,

Sumithranagar, Kukatpally,

Hyderabad.

…… Petitioner

And

The Regional Manager,

A.P.S.R.T.C.

J.B.S. Picket,

Secunderabd and another

…… Respondents

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 10341 of 2005

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ORDER:

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The petitioner was employed as a driver in the A.P.S.R.T.C. When he was driving a bus of the Corporation on 18.09.2003, an accident took place at 8.45 p.m. at Chanda Nagar. Alleging that the petitioner drove the bus in a rash and negligent manner, the respondents initiated disciplinary proceedings against him by issuing a charge sheet dated 10.10.2003. After conducting the departmental enquiry, the 2nd respondent removed the petitioner from service through his order, dated 19.01.2004. Aggrieved thereby, the petitioner filed an appeal before the Divisional Manager. The

appeal was rejected on 19.05.2004. Thereafter, the petitioner filed a review before the Regional Manager, the

1st respondent herein. Through his order, dated 20.12.2004, the

1st respondent modified the order of punishment against the petitioner and directed his reinstatement subject to certain conditions. Petitioner challenges the conditions imposed by the

1st respondent.

Learned counsel for the petitioner submits that once the

1st respondent was satisfied that the petitioner was not guilty of rash and negligent in driving the bus, he ought to have restored all the benefits to him and that there was no justification for implicating other punishments and imposing various conditions.

Learned standing counsel for the Corporation raised a ground as to the maintainability of the writ petition itself. It is urged that the petitioner had to work out his remedies by raising an industrial dispute, inasmuch as the initial order was the one for removal from service. It is contended that the 1st respondent took a lenient view of the matter, and instead of sustaining the order of removal, directed reinstatement of the petitioner, subject to certain conditions and that no exception can be taken to it.

It is true that the petitioner has to raise an industrial dispute before the Labour Court, in case he is not satisfied with the order of the 1st respondent. Such an industrial dispute is maintainable because the initial order was one of removal from service. This Court is of the view that it is better that the matter is considered on a proper perspective instead of requiring the petitioner to undergo the ordeal of raising an industrial dispute and further proceedings thereafter. The relief granted to the petitioner by the 1st respondent is to the following effect:

1. "The petitioner shall be reinstated into service as Driver duly reducing his pay by two incremental stages for a period of two years which shall have the effect of postponement of his future increment.

2. He should pay fresh Security Deposit and produce valid driving licence.

3. The period from the date of removal till date of his reporting for duty at the Unit posted on reinstatement shall be treated as NOT ON DUTY for all purposes, viz., PF, Gratuity, Leave, Increment, Promotion, Seniority etc.

4. He should pay back all dues viz., Festival Advance, short remittance of bus cash if any, etc., and produce NO DUE CERTIFICATE from the Depot Manager, BHEL Depot.

5. He should be taken on duty after paying the SBT, SRBS subscriptions along with interest as decided by the Secretaries SBT/SRBS, if he happens to be a member.

6. He shall be directed to the Principal, Zonal Staff Training College at HPT for 15 days driver training, during which period he shall not be entitled to any wages.

7. He should give in writing that the above terms and conditions are acceptable to him."

Out of various facets of the punishment, referred to above, it is evident that no exception can be taken to the one referred in paragraphs 1 and 2. Reduction of the pay by two incremental stages for a period of two years with cumulative effect cannot be treated as severe or disproportionate, having regard to the fact that initial punishment was the one, for removal. Similarly, the petitioner is under obligation to pay fresh security deposit and produce valid driving licence. So far as the one indicated in paragraph 3 is concerned, this Court is of the view that the period from the date of removal till the date of reporting to duty, though can be treated as 'not on duty' for the purpose of emoluments, it cannot be treated so, for the purpose of Provident Fund, Gratuity, Seniority etc. As regards paragraph 4, even assuming that there are any dues payable by the petitioner towards festival advance etc., the same can be recovered from the petitioner from his salary after he is reinstated. He cannot be required to pay the entire dues as a condition precedent for reinstatement. Same

is the case with the payment of subscriptions for various schemes. Such amounts can also be deducted from the salary of the petitioner, provided he is a member or subscriber for such schemes. If there is any due on the part of the petitioner, he has to forego the benefits under the scheme. Paragraphs 6 and 7 do not call for any interference.

For the foregoing reasons, the writ petition is disposed of by sustaining the course of action indicated by the 1st respondent in his proceedings, dated 20.12.2004, in all respects except that;

a. The period from the date of removal till the date of reporting to duty shall not be treated as 'not on duty' for the purpose of Gratuity, Leave, Increment, Promotion, Seniority etc;

b. The petitioner shall not be required to pay the dues, if any, of festival advance etc., and that the same shall be deducted from the future salary of the petitioner;

c. The dues of subscription, if any, for any schemes introduced by the Corporation to which the petitioner is a member shall also be recovered from the future salary of the petitioner together with interest, if any, in accordance with the relevant rules, and

d. In all other respects, the order passed by the 1st respondent shall hold good.

There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

21st SEPTEMBER, 2005.

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